

§ 842.129

32 CFR Ch. VII (7–1–08 Edition)

Force or the General Accounting Office.

(b) *Redelegation of authority.* A settlement authority may redelegate settlement authority to a subordinate judge advocate or civilian attorney, in writing.

(c) *Appellate authority.* Upon appeal, a settlement authority has the same authority specified in § 842.128(a). The Judge Advocate General is the final appellate authority on subpart F type claims without right of further appeal to the Secretary of the Air Force. However, no appellate authority below The Judge Advocate General may deny an appeal of a claim it had previously denied.

(d) *Authority to reduce, withdraw, and restore settlement authority.* Any superior settlement authority may reduce, withdraw, or restore delegated authority.

(e) *Settlement negotiations.* A settlement authority may settle a claim filed in any amount for a sum within its delegated authority. Send unsettled claims in excess of the delegated authority to the level with settlement authority. Unsuccessful negotiations at one level do not bind higher authority.

§ 842.129 Settlement of claims against NAFIs.

(a) This subpart does not establish legal theories for adjudication of claims. Refer to the appropriate subpart to decide whether a claim is payable (e.g., subpart D for personnel claims; subpart K for tort claims), then use the rules in this subpart to decide the appropriate funds for payment of any approved claim.

(b) Claims arising from property damage to or loss from vehicles or loss of personal items stored in base MWR facilities will be evaluated under the normal rules applied by the appropriate subpart of this part, and paid using the rules in those subparts. Examples include recreational vehicles stored in authorized lots and used cars parked in onbase sales lots. One exception to this rule is the exclusion of personal items stolen from onbase gym lockers (discussed below).

(1) If a NAF fee has been charged in connection with the use of the storage

location, a determination must be made on the nature of the fee charged. If the fee does no more than reimburse NAF costs in administering or maintaining the storage location, subpart O of this part applies in addition to other appropriate subparts. If the fee is set to generate a profit for the NAFI involved or if it is collected in accordance with the terms of an agreement, express or implied, under which the NAFI represents that it will provide some degree of security or safeguarding of the property, the claim will be paid with NAF funds.

(2) Normally, theft of items from gym lockers will be paid out of appropriated funds providing there is affirmative evidence of theft. Mysterious loss of property will not be paid and, in no case, will a claim be paid in excess of \$250.

§ 842.130 Payment of claims against NAFIs.

Substantiated claims against NAFIs must not be paid solely from appropriated funds. Claims are sent for payment as set out in this subpart. Do not delay paying a claimant because doubt exists whether to use appropriated funds or NAFs. Pay the claim initially from appropriated funds and decide the correct funding source later.

§ 842.131 Tort and tort type claims.

(a) *Claims within the scope of this subpart.* Claims which are within the scope of this subpart are those arising out of the operation of an MWR activity and are caused by:

(1) Civilian employees paid by a NAFI acting in the scope of their employment.

(2) Military personnel or appropriated fund civilian employees performing part-time duties for a NAFI for which a NAFI is paying.

(3) Negligent operation or condition of premises for which a NAFI is responsible.

(4) Members or authorized users of NAFI property. Such claims are subject to this subpart if the individual is a member of an MWR membership association or an authorized user of NAFI property and the use is in accord with applicable rules.